

Docket: Cabl.02USU1

REMARKS

This amendment is submitted after Final to place this application in better form for appeal. Claim 4 has been amended to make this claim dependent on claim 1. In addition, claim 12 has been amended to cancel "said content provider" and in its place insert a cable system provider. As stated in the Summary of Interview, the Examiner examined this application on the basis that claim 4 was intended to be dependent upon claim 1 instead of cancelled claim 3. Further, the Examiner examined claim 12 on the basis that "said content provider" should be replaced with "a video cable system provider." Hence, these amendments simply conform to the understanding of which the Examiner examined this case and should be entered to place this application in better form for appeal so that the claims reflect the understanding upon which the claims were examined.

The Examiner rejected claims 12-16 under 35 USC § 102(3) as being anticipated by Norsworthy et al.

Norsworthy is an internet transaction acceleration system in which requests can be made by users via a telephone system 102 to an ISP for data. The ISP 103 can then download data from the Internet 107 through high bandwidth connection 106 and transmit this data via high bandwidth link 109 to head end 108. The data can then be transmitted over a high bandwidth link such as cable 113, or broadcast wirelessly to the user 101 which detects the broadcast signal via an antenna 112.

Claim 12 specifically recites "a managed network coupled to said content server that is capable of transmitting said video data from said content server to said head end using a first transport mechanism upon receiving a request from said cable system user that is transmitted to said managed network without going through said head end, said video data being transmitted by a plurality of first transport data streams that provide a guaranteed quality of service that is sufficient to view the video data without storing said video data at said head end."

There is no mention in Norsworthy of a managed network. Rather, Norsworthy refers to a high bandwidth connection 106 that is connected to the Internet and a high bandwidth link 109 that is connected between the ISP 103 and the head end 108. These high bandwidth networks do not necessarily provide "a guaranteed quality of service" as

Docket: Cab1.02USU1

recited in claim 12. Further, there is no disclosure in Norsworthy of "a content provider...that provides a listing of video data available from the content provider."

In addition, Norsworthy does not disclose "delivering video data on-demand." As disclosed in column 5, lines 4 through 16, scheduling must be provided for delivering the data.

Further, claim 12 recites a "translator located in the head end that translates the first transport data streams to a plurality of second data transport streams and a second transport mechanism that is compatible with a said cable system." As disclosed in column 6, lines 13+, PC 101 requires a tuner to receive the data. There is no disclosure of a translator, such as a translator for translating data from an IP protocol to an MPEG protocol. The Examiner points out column 1, lines 33 through 43 and column 5, lines 4 through 22 and 53 through 59. These sections of Norsworthy merely state that the data can be supplied in different formats such as MPEG, JPEG or other formats. There is no disclosure of a translator for translating an IP transport mechanism to an MPEG transport mechanism in the head end.

If the Examiner is making these rejections based upon his personal knowledge, it is requested that the Examiner submit an affidavit under 37 CFR § 1.104(b)(2). Otherwise, it is requested that the Examiner provide a reference that discloses these limitations that have not been disclosed in Norsworthy.

The Examiner has also rejected claims 1, 4, and 6 under 35 USC § 103(a) as being unpatentable over Norsworthy in view of Ahmed et al. The Examiner states that Ahmed teaches a configuration where a modem communicates through an external data network through a cable system without information going through the head end and refers to POPS connection 122.

Ahmed does not make up for the deficiencies of Norsworthy. Again, there is no disclosure of a managed network with a guaranteed quality of service. There is no disclosure of a content server that provides a listing of video data. Further, there is no disclosure of a translator located at the head end. In other words, neither Norsworthy or Ahmed disclose these features of the claimed invention. If the Examiner is making this rejection based upon his personal knowledge, it is respectfully requested that the Examiner submit an affidavit to that effect pursuant to 37 CFR § 1.104(b)(2). Otherwise,

Docket: Cabl.02USU1

it is requested that the Examiner submit a reference that discloses these functions and features.

The Examiner rejected claims 5 and 7 through 9 under 35 USC §103(a) as being unpatentable over Norsworthy in view of Ahmed and further in view of Mimura et al. The Examiner states that Mimura discloses "real time protocol" as a transport mechanism for an IP managed network and that use of real time protocol as a transport mechanism in an IP managed network is well known in the art.

Mimura does not disclose that RTP is well known in the art. If the Examiner is asserting that RTP is well known in the art at the time of the filing of the present application based upon personal knowledge of the Examiner, it is requested that the Examiner submit an affidavit as requested above. In addition, there is no motivation stated for the combination of Norsworthy, Ahmed and Mimura. Each of these references is directed to separate inventions. For example, Norsworthy, et al is a system for providing additional bandwidth in a down stream direction. Ahmed is a system for providing bundled services. Mimura is a transport protocol conversion method. There is no motivation for combining these references and the Examiner has stated none.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Dated this 18th day of July 2005.

Respectfully submitted,

By:  7/18/05

William W. Cochran
Registration No. 26,652
Cochran Freund & Young LLC
2026 Caribou Drive, Suite 201
Fort Collins, CO 80525

Phone: (970) 492-1100
Fax: (970) 492-1101
Customer No.: 27479